

Texture Cream helps to refine dry, lined or roughened skin to satin smoothness. * * * If skin is very dry or lined apply revitalized formula," were false and misleading since the article would not be effective in correcting the texture of the skin or the removal of lines.

The revitalized formula was alleged to be misbranded in that the following statements appearing on its label, "A re-vitalized formula * * * Before re-tiring apply over corrective texture cream, especially where lines are prominent. Particularly recommended for an aging neck," were false and misleading since the article would not be effective in the removal of lines or signs of aging neck, nor would it revitalize the areas of the skin where such signs were present.

On August 30, 1944, Madam Olga Pataky, Philadelphia, Pa., having appeared as claimant and admitted the allegations of the libel, judgment of condemnation was entered and the products were ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

110. Misbranding of Miracle Aid for Wrinkles. U. S. v. 21 Bottles, 40 Bottles, and 10 1/4 Dozen Bottles of Miracle Aid for Wrinkles, and 50 Circulars. Default decrees of condemnation and destruction. (F. D. C. Nos. 11801, 12875, 12876. Sample Nos. 57239-F, 63481-F, 63486-F, 70030-F.)

On or about February 16 and July 7 and 15, 1944, the United States attorneys for the District of New Jersey, the District of Utah, and the Northern District of Georgia filed libels against 21 bottles of Miracle Aid for Wrinkles at Newark, N. J., 10 1/4 dozen bottles of the same product at Atlanta, Ga., and 40 bottles of the product and 50 circulars at Salt Lake City, Utah, alleging that the product had been shipped within the period from on or about November 27, 1943, to June 7, 1944, by Miracle Products, from Chicago, Ill.; and charging that it was misbranded.

Examination of samples of the article showed that it consisted essentially of water with small amounts of protein, such as egg white, and salt, and perfume.

The article was alleged to be misbranded in that certain statements in its labeling, on the bottle label, and in the circulars entitled "For the Preservation and Enhancement of Beauty," which accompanied the article when it was introduced and while it was in interstate commerce, were false and misleading since they represented and suggested that the article would be effective in removing wrinkles and double chin and would supply skin tissue protein to the body, whereas it would not be effective for such purposes.

It was alleged that the circulars which were the subject of seizure as part of the labeling of the article at Salt Lake City had been shipped in interstate commerce from Chicago, Ill., by Miracle Products on or about February 4, 1944, the article having been shipped on or about February 14, 1944.

It was alleged in the libel filed with respect to the lot seized at Newark that the circulars in that lot accompanied the article when introduced into and while in interstate commerce in the following manner: The Miracle Products (Mac Printing Co., Chicago, Ill., consignor) shipped the circulars on or about November 24, 1943, and on November 27, 1943, shipped the Miracle Aid for Wrinkles to Newark, where the cosmetic and the circulars were brought together for distribution to purchasers; and that the joint shipment and receipt of the cosmetic and the circulars relating thereto for joint distribution constituted a transaction in interstate commerce between the shipper and the consignee whereby the circulars accompanied the article when it was introduced and while it was in interstate commerce.

On April 17, August 8, and September 30, 1944, no claimant having appeared, judgments of condemnation were entered and the product, including the circulars in the Salt Lake City lot, was ordered destroyed.

111. Misbranding of Quinine Scalp Rub. U. S. v. 40 Jugs of Quinine Scalp Rub. Default decree of condemnation and destruction. (F. D. C. No. 11134. Sample No. 47670-F.)

On November 18, 1943, the United States attorney for the Eastern District of Illinois filed a libel against 40 1-gallon jugs of an article invoiced as Quinine Scalp Rub and located at East St. Louis, Ill., alleging that it had been shipped in interstate commerce on or about July 27 and August 5, 1943, by the Collins Laboratories, Inc., St. Louis, Mo.; and charging that it was misbranded. The article was unlabeled when shipped.

It was alleged to be misbranded in that it was a cosmetic in package form and, when shipped, failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count.

On December 20, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

COSMETICS IN DECEPTIVE CONTAINERS

112. Misbranding of Lady Esther Face Powder. U. S. v. 528 Boxes of Lady Esther Face Powder. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 12126. Sample Nos. 55164-F to 55168-F, incl.)

Examination of this product showed that space had been left between the top of the powder and the cover equivalent to approximately 47 percent of the total capacity of the box; that the label did not bear the address of the manufacturer; and that the statement of net weight had been placed on the box in small type of a noncontrasting color.

On March 31, 1944, the United States attorney for the Eastern District of Michigan filed a libel against 528 boxes of Lady Esther Face Powder at Detroit, Mich., alleging that the article had been shipped by Lady Esther, Limited, Chicago, Ill., on or about July 20 and December 29, 1943, and February 16, 1944; and charging that it was misbranded.

The article was alleged to be misbranded in that the label did not bear the place of business of the manufacturer, packer, or distributor; in that an accurate statement of the quantity of the contents was not prominently placed on the label with such conspicuousness, as compared with other words, statements, or designs in the labeling, as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; and in that its container was so made as to be misleading.

On May 26, 1944, Lady Esther, Limited, claimant, having admitted the facts alleged in the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling, under the supervision of the Food and Drug Administration, so as to bear the address of the manufacturer and set forth prominently upon the label an accurate statement of the quantity of contents and a statement, "Space allowed in cover for your puff," or other words of like tenor.

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PRODUCTS

| | N. J. No. | | N. J. No. |
|--------------------------------------|-----------------------------------|---|----------------------|
| Alexandra de Markoff Cleansing Cream | 102 | Madame Olga Pataky Corrective Texture Cream, revitalized formula | 109 |
| Dentifrice | 106 | cream | 110 |
| Eff-Remin Dentifrice | 106 | Miracle Aid for Wrinkles | 110 |
| Face creams | 102, 107-109 | Miscellaneous cosmetics (water-damaged, old) | 100 |
| powder | 112 | O. S. Lemon #401 | 101 |
| Gold Coast Hair Lacquer | 98 | Oliv-Tone | 103 |
| Hair and scalp preparations | 96-99, 103, ¹ 105, 111 | Permanent waving preparations | 99, ¹ 105 |
| Howard's Buttermilk Cream | 107 | Pierrette Custom Process of Cold Permanent Waving | 99 |
| Hubere Hair Lacquer | 96 | Quinine Scalp Rub | 111 |
| Hair Lacquer Pads | 96, 97 | Shaving preparations | ² 104 |
| Lacquers, hair | 96-98 | U-X Improved Shaving Medium | ² 104 |
| Lady Esther Face Powder | 112 | Vita-Ray Vitamin Cream | 108 |
| Lemon color | 101 | Waval Nutri-Tonic Oil Permanent Wave Solutions and Nutri-Tonic Wave Set | ² 105 |
| | | Wave set | ¹ 105 |

¹ Seizure contested.

² Seizure contested. Contains opinion of the court.